HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.8507 OF 2007

Between:

A D John Franklin

. . .Petitioner

AND

The Government of Andhra Pradesh and others

. . .Respondents

:: ORDER ::

Counsel for the petitioner : Shri S.Ramachandra Rao
assisted by Shri B.Srinivas

25th April, 2007

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Per G.S.SINGHVI, CJ

Having failed to persuade the Andhra Pradesh Administrative Tribunal (for short, 'the Tribunal') to entertain his prayer for ad-interim relief, the petitioner has invoked jurisdiction of this Court under Article 226 of the Constitution of India.

The petitioner joined service in 1996 as Secondary Grade Teacher. In 2002, he was sent on deputation to the Department of BC Welfare and was posted as Hostel Welfare Officer. After about five years, he was repatriated to the parent department.

The petitioner challenged his repatriation by filing an application under Section 19 of the Administrative Tribunals Act, 1985 (for short, 'the Act'), which has been registered as O.A.No.2148 of 2007. On 18-4-2007, the Tribunal issued notice to the respondents and made it returnable in four weeks. On the very next day, the petitioner filed this petition for quashing order dated 11-4-2007 and for issue of a mandamus to the respondents to absorb him as Hostel Welfare Officer in the BC Welfare Department.

Shri S. Ramachandra Rao, learned Senior Counsel appearing for the petitioner argued that the Tribunal's failure to pass ad-interim order should be treated sufficient for entertaining the writ petition. He further argued that if the petitioner's repatriation to the parent department is not stalled, he would suffer irreparable injury.

We have considered the submissions of the learned counsel. In our opinion, there is no merit in the writ petition and the same is liable to be dismissed summarily because, --

i) the petitioner has not produced before the Court, order dated 18-4-2007 passed by the Tribunal and without examining the same, we cannot directly or indirectly

pronounce on its legality;

ii) since the original application filed by the petitioner questioning the legality of order dated 11-4-2007 passed for his repatriation is pending adjudication, there is no warrant for this Court's interdiction in the matter, and

iii) there is no valid ground or justification to stay the implementation of the decision taken by the respondents to repatriate the petitioner to his parent department. If the application filed by the petitioner is finally allowed, the Tribunal may nullify order dated 11-4-2007 and/or direct his absorption in the Department of BC Welfare. Therefore, at this stage, we see no reason or justification to issue an interim mandamus for the petitioner's absorption in the Department of BC Welfare or to postpone the implementation of the order of repatriation.

In the result, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, WPMP No.10921 of 2007 filed by the petitioner for interim relief is disposed of as infructuous.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

April 25, 2007

svs